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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR     | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/622,706      | 08/21/2000  | Norman John Alfred Hurst | 827.1.016           | 8911             |

7590

05/20/2003

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/622,706

Applicant(s)

HURST ET AL.

Examiner

Lynda M Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendments, Paper No's, 6 and 7 have been entered. Claims 1,2, and 14 have been amended as requested. Applicant's amendments and accompanying remarks are found sufficient to overcome the 112 2<sup>nd</sup> paragraph indefinite rejections set forth in sections 1-6 of the last Office Action. Despite this advance, the amendments are not found to patentably distinguish the claims over the prior art, Applicant's arguments are not found persuasive of patentability and a new grounds rejection is set forth herein below.

2. The rejection of claims 1-3 and 6-15 rejected under 35 U.S.C. 102 (e) as being anticipated by Banks, US 5,991,922 is withdrawn. Specifically, the Banks reference fails to teach relative yarn diameter sizes set forth in claim 1.

### ***Claim Objections***

3. Claim 1 objected to because of the following informalities: The Examiner suggests amending claim 1 to recite "are *in* electrically conducting engagement" rather than "urged into electrically conducting engagement". Appropriate correction is required.

### ***Response to Arguments***

#### ***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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5. Claims 1-3 and 6-15 are rejected under 35 U.S.C. 103 (a) as being obvious over Banks, US 5,991,922.

The Applicant argues that the Banks reference fails to teach a an antistatic workwear comprising a electrically conducting strip or tape with portions exposed alternately on a first and second side, wherein the yarns of the conducting strip or tape have larger diameter yarn sizes relative to the diameters of the conducting yarns present in the antistatic workwear garment components (i.e., sleeve, torso, leg etc.). Said conducting strip or tape provides an electrical conduction between the conducting strip or tape and the conducting yarns in the garment components. These arguments are not found persuasive on the grounds that Banks does teach a static electricity dissipation garment comprising a pantsuit having a torso region, arm sleeves, cuffs, and leg portions (Figure 1). The pantsuit is woven from electrically conductive polyester fibers (Column 3, lines 66-Column 4, lines 1-2). The strands are spaced apart and oriented in a crisscross pattern (Column 4, lines 3-5). An electrically conductive ribbon edges the garment and works in conjunction with the electricity dissipation circuit (Column 4, lines 4-8). The electrically conductive ribbon is made from the same material as the suit elements having the fibers arranged in a closely spaced apart manner to promote conductivity (Column 4, lines 8-11). The electrically conductive ribbon is attached to the garment sections by means of stitching (Column 4, lines 50-54). One length of ribbon extends from the cuff of a sleeve section down to the underarm section and then upward within the seam across the collar and down then part way down the opposite arm seam. A length of ribbon also extends from down the torso section and all the way along a leg section seam (Column 4, lines 12-39 and Figure 1). With regard to the alternately exposed portions on the first and second side of the conducting strip or tape

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limitation, it is the position of the Examiner that the electrically conductive ribbon of Banks, would inherently have alternately exposed portions on the first and second side of the ribbon. Support for said argument is found in the teachings of Banks, which explicitly state that the electrically conductive ribbon is made from the same material as the pantsuit which comprises polyester within which are woven strands of electrically conductive fibers. It is a fact in the textile art that mono-layer woven fabrics have alternately exposed portions of the yarns of the weave on first and second sides, due to the passing over and under the warps and wefts of the weave. Thus, a ribbon having polyester within which are woven strands of electrically conductive fibers would meet this limitation. With regard to the Applicant's argument that the electrically conductive ribbon of Banks fails to provide an electrical conduction between the conducting ribbon and the conducting yarns in the antistatic garment components, it is the position of the Examiner that Banks clearly teaches seaming the antistatic garment with the electrically conductive ribbon. Such an arrangement would bridge adjacent garment components and provide the necessary electrical conduction between the conducting ribbon and the conducting yarns in the antistatic garment components. With regards to the relative yarn diameters, no criticality has been associated with this size feature. As such, and in the absence of unexpected results, it would have been obvious to one of ordinary skill to vary the yarn size of the ribbon of Banks motivated by aesthetic or strength properties. See *In re Rose*, 105 USPQ 237; and *In re Reese*, 129 USPQ 402

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. Claims 4 and 5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Banks, US 5,991,922 as applied to claim 1 above.


Applicant argues that there is no motivation for modifying the Banks reference to accommodate the relative diameter limitations set forth in claim 1. This is not found persuasive since the Applicant has not set forth the importance of said critical limitation. Thus, without such disclosure, the Examiner maintains that it would have been obvious to one having ordinary skill in the art at the time the invention was made to optimize the diameter of the yarns used in the garment and electrically conductive ribbon in order to enhance the strength, aesthetics, and electrical conductive dissipation properties as set forth in section 9 of the last Office Action.


***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

ls   
May 19, 2003

  
TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700